**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No. 174 of 2005 (S/B)**

Smt. Dr. Suniti Mishra,
W/o Dr. S.K. Mishra,
R/o 3/4 Officer Colony,
S.D.M. Compound, Haldwani,
District Nainital. …… Petitioner

Versus

1. Union of India,
through its Secretary,
Personal Public Grievances and Pensions,
Government of India, New Delhi.
2. State of Uttar Pradesh,
through its Principal Secretary,
Reorganisation/Coordination Department,
U.P., Lucknow.
3. State of Uttaranchal,
through its Principal Secretary,
Reorganisation Department,
Uttaranchal, Dehradun.
4. State of Uttaranchal,
through its Principal Secretary,
Medical and Family Welfare Department,
Uttaranchal, Dehradun.
5. Director, Homeopathic Services,
Uttaranchal, Dehradun. …….. Respondents

Mr. S. Dhulia, Senior Advocate assisted by Mr. Ashish Joshi, Advocate for the petitioner.
Mr. Anjali Bhargava, Central Govt. Counsel for respondent No. 1.
Mr. S.P.S. Panwar, Addl. Chief Standing Counsel for the State of U .P.
Mr. J.P. Joshi, Addl. Chief Standing Counsel for the State of Uttaranchal.

**Coram: Hon. Cyriac Joseph, C.J.**
**Hon. B.C. Kandpal, J.**
**JUDGMENT**

**CYRIAC JOSEPH, C.J. (Oral)**

1. The petitioner is a Medical Officer in the State Homeopathic Dispensary, Base Hospital, Haldwani. After creation of the State of Uttaranchal, the petitioner had opted for the State of U.P. When the Final Allocation List was issued, the petitioner's name was rightly excluded form the list of medical Officers allotted to the State of Uttaranchal. Based on the Final Allocation List, Government of Uttaranchal issued Annexure 1 order dated 21.07.2005 relieving the

petitioner from the service of the State of Uttaranchal. The petitioner has filed this writ petition praying mainly to quash Annexure 1 order. There is also a prayer for directing the respondents to place the petitioner in the service of the State of Uttaranchal in pursuance of Annexure 5 order dated 14.06.2005 issued by the Government of U.P.

2. We have heard Mr. Sudhanshu Dhulia, learned Senior Counsel for the petitioner, Ms. Anjali Bhargava, learned Central Government Counsel for the first respondent, Mr. S.P.S. Panwar, learned Addl. Chief standing Counsel for respondent No. 2 and Mr. J.P. Joshi learned Addl. Chief Standing Counsel for respondents No.s. 3, 4 and 5.

3. The petitioner cannot have any legal grievance against her allotment to the State of U.P., as petitioner had opted for the State of U.P. She has no right to be included in the list of Medical Officers to be allotted to the State of Uttaranchal. Since the petitioner has been rightly allotted to the State of U.P., the Government of Uttaranchal was right and justified in issuing Annexure 1 order relieving the petitioner from the service of the Government of Uttaranchal. Hence, the challenge against Annexure 1 order is bound to fail.

4. The alternate claim of the petitioner is that her request for accommodation in the service of the Government of Uttaranchal is liable to be considered by the Government of Uttaranchal in consultation with the Government of U.P. in the light of Annexure 5 order dated 14.06.2005 issued by the Government of U.P. It is stated that one Dr. Ashok Verma who has been allotted to the State of Uttaranchal wants to continue in the State of U.P. and therefore, in lieu of his continuance in the State of U.P., the petitioner can be allowed to continue in the State of Uttaranchal as per the policy mentioned in Annexure 5 order dated 14.06.2005. It is also stated that the petitioner and the said Dr. Ashok Verma submitted Annexure 8 joint representation dated 18.07.2005 to the Government of Uttaranchal and the Government of Uttar Pradesh requesting that the petitioner may be allowed to continue in the service of the

Government of Uttaranchal and the said Dr. Ashok Verma may be allowed to continue in the service of the Government of U.P. The said Dr. Ashok Verma has sent an individual representation dated 18.07.2005 (Annexure 9) to the Governments of Uttaranchal and U.P. with the same request. The petitioner and the said Dr. Ashok Verma submitted a further joint representation dated 26.07.2005 (Annexure 10) to the Government of Uttaranchal and the Government of U.P. Learned counsel for the petitioner contended that till a final decision is taken by the Governments of U.P. and Uttaranchal on the above-mentioned representations, Annexure 1 order relieving the petitioner from the State of Uttaranchal may be kept in abeyance.

5. Having regard to the facts and circumstances of the case, we are of the view that respondents Nos. 2, 3 and 4 should be directed to consider Annexures 8, 9 and 10 representations as expeditiously as possible in the light of Annexure 5 order dated 14.06.2005. Interest of justice requires that till a decision is taken by the above-mentioned respondents on the said representations, the petitioner should not be compelled to leave the service of the Government of Uttaranchal.

6. Hence, the writ petition is disposed of with a direction to respondents Nos. 2, 3 and 4 consider Annexures 8, 9 and 10 representations as expeditiously as possible and at any rate, within a period of three months from the date of receipt of a copy of this judgment. Till a final decision is taken on the said representations by respondents No. 2, 3 and 4 and the said decision is communicated to the petitioner, Annexure 1 order relieving the petitioner from the service of the Government of Uttaranchal shall be kept in abeyance.

7. The petitioner may produce a copy of this judgment before respondents Nos. 2, 3 and 4 for information and compliance.

**(B.C. Kandpal, J.)** **(Cyriac Joseph, C.J.)**
**09.08.2005** **09.08.2005**

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